

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RUSSELL, et al,
Plaintiffs

v.

HARRIS COUNTY, TEXAS, et al,
Defendants

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[]
[]
[]

No. 4:19-cv-00226

Hon. Lee H. Rosenthal

U.S. District Judge

REPORT OF SHERIFF ED GONZALEZ SEPTEMBER 4, 2020

The Court requested updated information from the parties regarding formal individualized bail-determination hearings. The Sheriff uses this opportunity to update the Court on two other issues which have been previously raised.

The DA's non-objection lists. Since the beginning of April 2020, the DA has periodically submitted lists of inmates to which it had no objection to release. There have been approximately two dozen such lists from the DA, with a total of 274 defendants to which no objection was lodged. Of that number, 236 are no longer in custody, leaving only 38 still in jail.

Court appearances for inmates previously testing positive. We have advised the Court that the Sheriff has established procedures to permit inmates who have recovered and no longer test positive to attend court proceedings. Standing orders from several of the felony judges had prohibited any inmate who tested positive from appearing.

Permit a digression at this point. With the notable exception of the three intervening felony judges (about whom more in a moment), communications between the HCSO and the remaining felony judges since they were added as parties to the case have been markedly more cumbersome. Counsel for the judge-defendants insists, as is her right, that any case-related communication go through her, but given the breadth of the issues in this case it is often difficult to distinguish between a more routine matter that could allow direct contact and one that touches this case.

The issue of new HCSO procedures for formerly positive inmates is one example of this new wall that cuts off the flow of information. The three intervening felony judges (Warren, Silverman, and Gray) withdrew their COVID positive orders with alacrity. Only four of the remaining judge-defendants (Anastasio, Luong, Ritchie, and Jones) have done so. The Sheriff has received no additional information about whether the other felony judges will comply with the new HCSO procedures or even whether they will permit formerly positive inmates from appearing under any circumstances.

Bail hearings. The three intervenors earlier today filed their own report regarding the number of formalized bail hearings they have held. As set out above, getting similar information from the remaining judges has been difficult.

After the last hearing, the HCSO instructed its bailiffs who work in the felony courts (and are employees of the HCSO) to keep track of evidentiary bail hearings. This is not an ideal way to get an accurate count, to be sure, as the bailiffs have other duties and they are not trained to recognize whether a hearing meets the criteria to be counted. So far, the number of formalized bail hearings in the past two weeks as reported by the bailiffs can be counted on one hand.

The numbers:

1. The total jail population is 8,357, an increase of 62 from the August 20, 2020 report. *Note: the slow uptick in the population ought to be alarming to all. The jail is now at 97% capacity.*
2. For the HCSO, 787 employees have tested positive, 2049 negative, and 320 remain in quarantine. For the CJC, 72 are currently positive.
3. 8,559 inmates tested, with these results: 6,490 negative; and 2,068 positive (of whom 1,486 are still in custody).

Respectfully submitted.

/s/ Murray Fogler

Murray Fogler

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ATTORNEYS FOR SHERIFF ED GONZALEZ

CERTIFICATE OF SERVICE

I certify that on September 4, 2020, a copy of this document was served on counsel of record via electronic filing in accordance with the USDC Southern District of Texas Procedures for Electronic Filing.

/s/ Murray Fogler
Murray Fogler